

In The United States District Court
For The Middle District of Alabama
Southern Division

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Douglas Stevenson #229063
Petitioner pro se

-vs-

Gwendolyn Mosley, et al.
Respondents

CLERK OF DISTRICT COURT
MIDDLE DISTRICT ALA.

Civil Action no: 1:06-cv-898-MEF
Re: Habeas Corpus action
state court case numbers
02-016562, 02-116662, 02-116762
02-116862, 02-117062
case here: 1:06-cv-898-MEF

Motion For An Extension of Time

Comes now Petitioner Douglas Stevenson pro se pursuant to Rule 41 and any other appropriate Rule authority or statute herein respectfully moves this Honorable Court for an extension of time in which to prosecute this cause of action for just cause as will be shown and explained herein.

First A Challenge To Respondents' Answer

Petitioner challenges and objects to Respondents Answer in its entirety as they speak in a prevaricative manner, attempting to mislead

This Honorable Court by claiming that Petitioner filed a series of Rule 32's, when in reality he only filed two post-conviction challenges and yes the first one was on or around Sept 9th 2003 which was denied by the trial court who failed to address the merits of it, so Petitioner having an illegal sentence - which can be challenged at any time, filed his second ones pursuant to state law governing same - which the state is attempting to use illegally as an excuse to justify having this Petitioner's second case dismissed - which it did. Now they continue arguing unjustifiable the same argument in this case at bar - they are attempting deceit to have this meritorious case at bar dismissed - they really can not get their act together on their story.

Then because Petitioner was not given an Evidentiary hearing in state court on his claims, he is entitled to one in Federal Court before his case is decided Medina -vs- Barnes 71 F.3d 363 (10 Cir. 1995)

Then because there is no statute of limitation on a challenge to an illegal sentence as we have here, this Honorable Court has jurisdiction to hear it and decide the merits of it, see

Hunt -vs- State 659 So.2d 998 (Ala. Crim. App. 1994)

U.S. -vs- Stepleton 268 F.3d 597 (8 Cir. 2001)

Furthermore, Petitioner did not file four additional Rule 32's as cited on page 4, bottom para. of said Order, as a review of the attach exhibit marked "A" shows that Petitioner only filed two. The first one on Sept. 9, 2003 which was denied by the Trial Court without addressing the merits of it. The second one on Sept 13th 2005 was also summary dismissed without the Trial Court addressing the merits of it. Because an illegal sentence by law can be challenged at any time there is no statute of limitation to challenge such illegal sentence - which is an jurisdictional claim. Kiland -vs- State 668 So.2d 147 (Ala. Crim. App 1995) and also see Alabama Code Title 6-2-8 which suspends the Time limitation in civil action for inmates in prison in Alabama and the U.S. Supreme Court held in Hydrio -vs- Straub 109 S.Ct. 1998, 1999 (1989) that Federal Courts must apply, State Statutes in Federal Court action. In Petitioner's case here, the Trial Court failed to abide by the States own rules in refusing to enter specific findings of fact in denying or dismissing a Rule 32 petition see Shaw -vs- State 668 So.2d 98 (Al. Crim. App. 1995)

So considering the fact that Petitioner's last (and second one) Rule 32 was filed on Sept. 15 2005 and the end result was on September 2006.

This Federal Habeas corpus at bar was filed within the one year period governing such action. Therefore Petitioner believes the Magistrate erred in her findings and order dated October 31 2006 *sub judice*, saying that the one year statute of limitation for Petitioner ended on September 25, 2004, that may have been so - if the Trial Court had ruled on the merits of Petitioner's first Rule 32 action - but it didn't. Therefore Petitioner had a right to file a second Rule 32 in an attempt to force the Trial Court to address the merits of Petitioner's post-conviction challenge by way of a Rule 32 action, see

Esslinger vs Davis 44 F.3d 1515 (11 Cir. 1995)
Then all of Petitioner's priors were misdemeanors which the Trial court used illegally to enhance a Petitioner sentence

Avery vs State 825 So.2d 125 (Ala. crim App. 1995)

The core issue the Magistrate ordered this Petitioner to address, was - is - why this Federal Habeas corpus petition should not be dismissed, as (according to said Magistrate) it was not filed within the one year limitation period established by 28 USC. section 2244 (d) (1) ... Petitioner addressed the first part of that answer in the above action here and furthermore there is no

inmate legal assistant program of any kind in Easterning institute and its law library is completely inadequate in size and material (law books). Petitioner is a layman unschooled in legal knowledge or action and unable to do any such work himself (this action is being prepared for him by a friend) so his ignorance should not be grounds to punish him in dismissing this petition - there is inadequate access to the institutions' law library also.

Then Petitioner's second Rule 32 petition filed on or around Sept. 15th 2005 was properly filed because pursuant to State and Federal authorities a second Rule 32 filed is not barred or considered a successive petition when the first one was not addressed properly and/or illegally dismissed. *John vs. State* 724 So.2d 72 (Ala. Crim. App. 1993) and see other authorities cited in this Motion. So contrary to what the Magistrate held, Petitioner argues the one year statute of limitation governing Federal Habeas Corpus action regarding an inmate confined in a state prison - should not have started to run till Petitioner's second Rule 32 filed on Sept. 15, 2005 action had run its course in state's courts.

Shaw vs. State 668 So.2d 98 (Ala. Crim. App. 1995)

It is well established that pursuant to Rule 12(b) This Honorable Court must accept as true all of Petitioner's allegations and view them in light most favorable to Petitioner and draw all inference in Petitioner's favor. Please see *Jelly vs. Klein* 923 F. Supp. 931 (Tex. 1996, key 8-12 on 948-1d

Motion For Extension of Time

Petitioner respectfully moves this Honorable Court for an extension of time as to any more action taken on this case, because Petitioner needs the assistance of legal counsel in this cause as Petitioner is a lay-man unschooled in law (this is being prepared for Petitioner by another inmate) and will need the assistance of a trained attorney to conclude this action, for that reason, and Petitioner will be released from prison shortly, on or in the month of April 2007 at which time he will attempt to obtain a free-world attorney to conclude this cause of action.

It is so prayed. Respectfully submitted

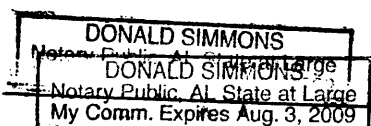
St. Douglas E. Stevenson

Douglas Stevenson pro se

Subscribed to on Nov. 15th 2006

St. Douglas E. Stevenson

Notary my commission expires on



Certificate of Service

Douglas Stevenson herein avows and states under oath that a true copy of the attach Motion For Extension of Time in case No. 1:06-cv-898-MEF is being sent by U.S. mail properly addressed to the Respondents Attorneys at their listed address

John M. Porter Esq.
Assistant Attorney General
Alabama State House
11 South Union Street
Montgomery, Alabama 36130-0152

on November 13th 2006

By Douglas E. Stevenson

Douglas Stevenson - Affiant
A/S, No. 228063 on 7-B-48
Easterling Corri Fae
200 Wallace Drive
Clio, Alabama 36017

Subscribed and Sworn to
before me a Notary Public
on November 13th 2006

By Donald Simmons

Notary my commission expires on
- 7 -

DONALD SIMMONS Notary Public, AL State at Large My Comm. Expires Aug. 3, 2009

Exhibit

"A"

0372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2002 001170.62
 R: RHM CASE ACTION SUMMARY
 PAGE: 1 CIRCUIT CRIMINAL RUN DATE: 09/16/2005
 IN THE CIRCUIT COURT OF HOUSTON JUDGE: SEJ

STATE OF ALABAMA

VS

STEVENSON DOUGLAS EDWARD
 EASTERLING CORR. FAC.
 2100 WALLACE DR
 CLIO, AL 36017 0000

CASE: CC 2002 001170.62

DOB: 04/25/1957 SEX: M RACE: B HT: 5 08 WT: 180 HR: BLK EYES: BRO
 SSN: 077506735 ALIAS NAMES:
 CHARGE01: RULE 32-FELONY CODE01: RULE LIT: RULE 32-FELONY TYP: F #: 001
 OFFENSE DATE: AGENCY/OFFICER:

DATE WAR/CAP ISS:
 DATE INDICTED:
 DATE RELEASED:
 BOND AMOUNT:

\$.00

DATE ARRESTED:
 DATE FILED: 09/15/2005
 DATE HEARING:
 SURETIES:

DATE 1:
 DATE 2:

DESC:
 DESC:

TIME: 0000
 TIME: 0000

TRACKING NOS: DC 2002 001489 00 /

DEF/ATY: PRO SE

TYPE: A

TYPE:

00000

00000

PROSECUTOR: VALESKA DOUGLAS A

OTH CSE: DC200200148900 CHK/TICKET NO: GRAND JURY:
 COURT REPORTER: SID NO: 000000000
 STATUS: JAIL DEMAND: Y OPER: RHM

DATE ACTIONS, JUDGEMENTS, AND NOTES

9-15-05	Rule 32 Petition; Petition for Relief from Conviction or Sentence. In Forma Pauperis Declaration. 9/20/05 Free filing authorized. In that free filing has been previously authorized for petitions in the past, Defendant is allowed 15 additional days to amend his petition as to any additional or further claims which he might have as free filing will not be available in the future. 9-21-05 N: DA & def CIRCUIT JUDGE
09-27-05	Motion for Summary Disposition.
10-11-05	This is defendant's 2nd petition on this same issue. The dismissal of that petition was affirmed 1/23/04. This petition also fails to state a claim and is contrary to the record, therefore it is dismissed. 10-14-05 N: Def /s/Jackson, Judge

EXHIBIT - A-2

AIS: 00228063 INMATE: STEVENSON, DOUGLAS EDWARD RACE: B SEX: M

INST: 235 - HOUSTON DORM: 00 JAIL CR: 000Y 08M 19D

DOB: 04/25/1957 SSN: 077-50-6735

ALIAS: CHRISTOPHER, SC

ADM DT: 03/11/2003 DEAD TIME: 000Y 00M 00D

ADM TYP: NEW COMIT FROM CRT W/O REV OF

STAT: NEW COMIT FROM CRT W/O REV OF

CURRENT CUST: DTH-4 CURRENT CUST DT: 03/11/2003 PAROLE REVIEW DATE: - NONE -

SECURITY LEVEL: NO CLASSIFICATION RECORD FOUND

SERVING UNDER ACT446 LAW IN CLASS III

CURRENT CLASS DATE: 03/11/2003

INMATE IS EARNING : EARNS 20 DAYS FOR EACH 30 SERVED

COUNTY	SENT DT	CASE NO	CRIME	JL+CR	TERM
HOUSTON	03/11/03	N02000165	RECV STOLEN PROPERTY II	0338D	015Y 00M 00D CS
			ATTORNEY FEES : \$000000		
			COURT COSTS : \$0000273		
HOUSTON	03/11/03	N02001166	CRIM POSS OF FORGED INSTRU	0259D	015Y 00M 00D CC
			ATTORNEY FEES : \$002225		
			COURT COSTS : \$0000281		
HOUSTON	03/11/03	N02001168	CRIM POSS OF FORGED INSTRU	0259D	015Y 00M 00D CC
			ATTORNEY FEES : \$000000		
			COURT COSTS : \$0000281		
HOUSTON	03/11/03	N02001169	CRIM POSS OF FORGED INSTRU	0259D	015Y 00M 00D CC
			ATTORNEY FEES : \$000000		
			COURT COSTS : \$0000281		
HOUSTON	03/11/03	N02001170	CRIM POSS OF FORGED INSTRU	0273D	015Y 00M 00D CC
			ATTORNEY FEES : \$000000		
			COURT COSTS : \$0000281		

TOTAL TERM	MIN REL DT	GOOD TIME BAL	GOOD TIME REV	LONG DATE
015Y 00M 00D	07/27/2007	000Y 00M 14D	000Y 00M 00D	06/21/2017

INMATE LITERAL:

DETAINDER WARRANTS SUMMARY

INMATE CURRENTLY HAS NO DETAINDER WARRANT RECORDS

ESCAPEE-PAROLE SUMMARY

INMATE CURRENTLY HAS NO PAROLE RECORDS

INMATE CURRENTLY HAS NO PROBATION 754 RECORDS

INMATE HAS NO ESCAPES FROM ALABAMA D.O.C.
SINCE D.B.S.C.I.S. RECORDING BEGAN IN 1978

CONTINUED ON NEXT PAGE